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7 TIMOTHY PEOPLES,
8 Plaintiff,
9 v.
10 RAUL MACHUCA, et al.,
11 Defendants.

Case No. [19-cv-05468-RMI](#)

ORDER

Re: Dkt. Nos. 154, 155

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13 Plaintiff, a state prisoner proceeding *in forma pauperis*, filed a *pro se* civil rights complaint
14 under 42 U.S.C. § 1983. Defendants' motion for summary judgment on exhaustion grounds was
15 denied and Defendants later stated that they did not believe the case could be resolved by a
16 summary judgment motion. (dkts. 86, 90). Counsel was appointed for Plaintiff and the case was
17 proceeding towards trial. Counsel for Plaintiff withdrew, and Plaintiff again continues *pro se*. Due
18 to the parties continuing with discovery and new discovery obtained, Defendants were provided
19 the opportunity to file a dispositive motion on the merits by January 29, 2025. Presently pending
20 are Plaintiff's motions for a ruling and to appoint an expert witness. (dkts. 154, 155).

21 Plaintiff requests that the Court appoint an expert witness regarding Defendants' use of
22 excessive force, denial of medical care, and retaliation. He provides little support regarding why
23 an expert witness is required for this case. Federal Rule of Evidence 706 authorizes the
24 appointment of a neutral expert witness, with expenses shared by the parties. The appointment of
25 an independent expert witness pursuant to Rule 706 is within the Court's discretion, *Walker v.*
26 *American Home Shield Long Term Disability Plan*, 180 F.3d 1065, 1071 (9th Cir. 1999), and may
27 be appropriate when "scientific, technical, or other specialized knowledge will assist the trier-of-
28 fact to understand the evidence or decide a fact in issue," *Ledford v. Sullivan*, 105 F.3d 354, 358-

1 59 (7th Cir. 1997). However, the statute authorizing Plaintiff's *in forma pauperis* status does not
2 authorize the expenditure of public funds for expert witnesses. *See 28 U.S.C. § 1915; Tedder v.*
3 *Odel*, 890 F.2d 210, 211-12 (9th Cir. 1989) (expenditure of public funds on behalf of indigent
4 litigant is proper only when authorized by Congress). The federal courts have uniformly held that
5 an indigent prisoner litigant must bear his own costs of litigation, including witnesses. *Id.* at 211
6 (*in forma pauperis* statute does not authorize waiver of fees for an indigent plaintiff's witnesses).

7 To the extent that Plaintiff is seeking to have the Court appoint an expert witness to aid his
8 case, that request is denied pursuant to the authority cited above because he is proceeding *in forma*
9 *pauperis*. To the extent Plaintiff is seeking a neutral expert, the Court does not find that the issues
10 in this case are so complicated such that the testimony of a neutral expert is warranted under Rule
11 706. The allegations of retaliation, excessive force, and deliberate indifference to serious medical
12 needs nor the legal issues involved are overly complex.

13 For the foregoing reasons:

14 The motion to appoint an expert witness (dkt. 155) is denied without prejudice and the
15 Court will consider the request if this case continues to trial. The motion for a ruling (dkt. 154) is
16 denied as meritless because Plaintiff's motion for reconsideration was already denied by the Court
17 (dkt. 153).

18 **IT IS SO ORDERED.**

19 Dated: February 10, 2025

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21 ROBERT M. ILLMAN
22 United States Magistrate Judge
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